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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,313	02/06/2002	Robert L. Miller II	01-2122.02	8860
24504	7590	10/04/2006	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948			DELGADO, MICHAEL A	
		ART UNIT	PAPER NUMBER	
			2144	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/068,313	MILLER ET AL.
	Examiner	Art Unit
	Michael S. A. Delgado	2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 06 July 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-27,29-32 and 34-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-27,29-32 and 34-45 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 February 2002 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 11-14, 17-21, 27, 29-32, 34-36, 39 and 43-45 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application No. 2003/0005099 by Sven et al.

In claim 1, Sven teaches about a communication system, comprising (Fig 1):

a plurality of clients “Clients 210” (Paragraph 33, lines 1-10);

a plurality of network elements (devices 205, properties) (Paragraph 33, lines 1-10) (Paragraph 52, lines 1-18); and

an element management system (EMS) “Event Manager” interfaced with the clients and the network elements, the EMS configured to track which of the network elements are of interest to the clients, the EMS further configured to automatically poll the network elements based on which of the network elements are determined, by the EMS, to be of interest to the clients, the EMS further configured to provide the clients with information indicative of the polled elements (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18). The act of querying for properties of different devices by the event manager in its self is polling.

In claim 2, Sven teaches about a communication system of claim 1, wherein the EMS is configured to detect a change in a state of one of the polled elements and to provide one of the clients with information indicative of the state in response to the detected change (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

In claim 3, Sven teaches about a communication system of claim 1, wherein the EMS is configured to detect a change in a state of one of the polled elements, and wherein the EMS is further configured to identify which of the clients are interested in the one polled element and to provide each of the identified clients with information indicative of the state in response to the detected change (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

In claim 4, Sven teaches about a system of claim 1, wherein the EMS is configured to identify which of the clients are interested in one of the network elements and to provide each of the identified clients with information indicative of a state of the one network element (Paragraph 52, lines 1-18).

In claim 5, Sven teaches about a system of claim 4, wherein the EMS is configured to transmit the information indicative of the state of the one network to each of the identified clients in response to a determination, by the EMS, that the state has changed (Paragraph 52, lines 1-18).

In claim 11, Sven teaches about an element management system (EMS) “Event Manager 250” for managing elements of a communication network, comprising (Paragraph 52, lines 1-18) (Fig 3);

means for tracking which of the network elements “devices properties” are of interest to a plurality of clients (Paragraph 52, lines 1-18);

means for automatically polling the network elements of interest to the clients based on the tracking means (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18); and

means for providing the clients with information indicative of the polled elements (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18). The act of querying for properties of different devices by the event manager in its self is polling.

In claim 12, Sven teaches about a system of claim 11, wherein the polling means is configured to detect a change in a state of one of the polled elements, and wherein the means for providing is configured to transmit the information to one of the clients in response to a detection of the change by the polling means (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

In claim 13, Sven teaches about a system of claim 11, wherein the polling means is configured to detect a change in a state of one of the polled elements, and wherein the means for providing is configured to identify which of the clients are interested in the one polled element

and to transmit information indicative of the state to each of the identified clients in response to a detection of the change by the polling means (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

In claim 14, Sven teaches about a system of claim 11, wherein the tracking means is configured to identify which of the clients are interested in one of the network elements, and wherein the providing means provides the information based on the tracking means (Paragraph 52, lines 1-18).

In claim 17, Sven teaches about a method for managing elements of a communication network, comprising the steps of (Fig 3):

tracking which of the network elements are of interest to a plurality of clients (Paragraph 52, lines 1-18);

automatically polling the network elements based on the tracking step (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18); and

providing the clients with information indicative of the polled elements (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18). The act of querying for properties of different devices by the event manager in its self is polling.

In claim 18, Sven teaches about a method of claim 17, further comprising the steps of: detecting a change in a state of one of the polled elements based on the polling step, wherein the providing step includes the step of providing one of the clients with information

indicative of the state in response to the detecting step (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

In claim 19, Sven teaches about a method of claim 17, further comprising the steps of: detecting a change in a state of one of the polled elements (Paragraph 52, lines 1-18); and identifying which of the clients are interested in the one polled element based on the tracking step, wherein the providing step includes the step of providing each of the identified clients with information indicative of the state in response to the detecting step (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 44, lines 1-12) (Paragraph 58, lines 10-25).

In claim 20, Sven teaches about a method of claim 17, further comprising the step of: identifying which of the clients are interested in one of the network elements based on the tracking step, wherein the providing step includes the step of transmitting, to each of the identified clients, information indicative of a state of the one network element based on the identifying step (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

In claim 21, Sven teaches about a method of claim 20, further comprising the step of: detecting a change in a state of the one polled element, wherein the transmitting step is performed in response to the detecting step (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

In claim 27, Sven teaches about a communication system of claim 1, wherein the EMS is configured to begin polling at least one of the network elements in response to a determination by the EMS that at least one of the clients is currently interested in the at least one network element (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

In claim 29, Sven teaches about a communication system of claim 28, wherein the EMS is configured to poll at least one of the network elements in response to a determination that at least one of the clients is interested in the at least one network element (Paragraph 18, lines 10-17) (Paragraph 52, lines 1-18).

In claim 30, Sven teaches about a communication system of claim 1, wherein the EMS is configured to receive, from one of the clients, a command for changing a configuration of one of the network elements identified by the command, and wherein the EMS is configured to change the configuration of the one network element in response to the command (Paragraph 44, lines 1-19).

In claim 31, Sven teaches about a communication system of claim 30, wherein the EMS is configured to transmit, in response to the command, a notification of the change in the configuration of the one network element to each of the clients determined by the EMS to be interested in the one network element (Paragraph 52, lines 1-18).

In claim 32, Sven teaches about a method of claim 17, wherein the polling step comprises the step of:

initiating polling of at least one of the network elements in response to a determination that at least one of the clients is currently interested in the at least one network element (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

In claim 34, Sven teaches about a communication system of claim 29, wherein the EMS is configured to ping the at least one client to determine whether the at least one client is still interested in the at least one network element (Paragraph 33, lines 1-11). This is equivalent to and end of TCP/IP session.

In claim 35, Sven teaches about a communication system of claim 34, wherein the EMS is configured to stop polling the at least one network element in response to a determination that the at least one client is no longer interested in the at least one network element (Paragraph 33, lines 1-11). This is equivalent to and end of TCP/IP session.

In claim 36, Sven teaches about a communication system of claim 29, wherein the EMS is configured to stop polling the at least one network element in response to a determination that the at least one client is no longer interested in the at least one network element (Paragraph 38, lines 1-15).

In claim 39, Sven teaches about a communication system of claim 1, wherein the EMS is configured to maintain data indicative of which of the network elements are currently of interest

to the clients, and wherein the EMS is configured to select, based on the data, which of the network elements are to be automatically polled (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

In claim 43, Sven teaches about a communication system of claim 1, wherein the EMS is configured to maintain data indicative of which of the network elements are currently of interest to the clients, and wherein the EMS is configured to periodically poll at least one of the network elements, based on the data, if the data indicates that the at least one network element is of interest to at least one of the clients (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

In claim 44, Sven teaches about a communication system of claim 43, wherein the at least one network element comprises a communication device having a data rate, and wherein the EMS is configured to periodically discover the data rate by periodically polling the at least one network element. (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18)

In claim 45, Sven teaches about a communication system of claim 1, wherein the EMS is configured to automatically and repetitively poll at least one of the network elements as long as at least one of the clients remains interested in the at least one network element (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6-10, 15-16, 22-26, 37-38 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application No. 2003/0005099 by Sven et al as applied to claims 1, 11 and 17 respectively above, and further in view of US Patent No. 6,895,431 by Bero.

In claim 6, Sven teaches all the limitation wherein the EMS is configured to store code “control object” defining an associated with one of the network elements “devices properties”, the EMS “Event Manager” configured to retrieve the code in response to a request received from one of the clients and to transmit the retrieved code to the one client, wherein the request identifies the one network element (Paragraph 34, lines 1-6) (Paragraph 38, lines 1-15) (Paragraph 40, lines 1-8) (Paragraph 49, lines 1-11) but does not explicitly teach about a system of claim 1, wherein a graphical user interface (GUI) is used. Sven teaches about the need for an efficient way to present device setting information to a user interface (Paragraph 9, lines 1-10)

Bero (from applicant IDS) teaches of the need and benefit of using a GUI in a dynamic configuration operation in which users are allowed to view and change configuration information (Col 7, lines 5-15) (Col 7, lines 50-60) (Col 8, lines 20-35). GUI is known in the art to be user friendly as the complication of the underlying operating code is represented by a user-friendly graphical interface, which allows dynamic operation to be conducted efficiently.

It would have been obvious for some one of ordinary skill to improve on the invention of Sven by using the GUI approach of Bero in order to support the dynamic nature of the configuration and monitoring processes while providing a user friendly interface.

In claim 7, Sven combined with Bero, teaches about a system of claim 6, wherein the EMS is configured to enable a user to update the stored GUI code, and wherein the EMS is further configured to detect an update to the stored GUI code and to transmit the updated GUI code to the one client in response to a detection of the update (Covered in claim 6) (Sven Paragraph 48, lines 1-12).

In claim 8, Sven teaches about a system of claim 6, wherein the EMS is configured to maintain data indicative of which of the clients are interested in which of the networks, the EMS configured to update the data in response to the request (Covered in claim 6) (Sven Paragraph 48, lines 1-12) (Sven Paragraph 52, lines 1-18).

In claim 9, Sven combined with Bero, teaches about a system of claim 8, wherein the one client is configured to display a GUI based on the GUI code transmitted to the one client, the one client further configured to close the GUI in response to a user input and to transmit a message to the EMS upon closing the GUI, wherein the EMS is configured to update the data in response to the message (Covered in claim 6) (Sven Paragraph 33, lines 1-9). A GUI running on top of TCP/IP (connection oriented) requires the establishment of a session when in operation. By closing the GUI, the session is terminated according to the protocol of TCP/IP, which is communicated to the destination (EMS) while in the process of closing the session.

In claim 10, Sven combined with Bero, teaches about a system of claim 9, wherein the one client is configured to discard the GUI code transmitted to the one client upon closing the GUI (Covered in claim 6) (Sven Paragraph 33, lines 1-9). Without a TCP/IP session all intended data transfer is discarded.

In claim 15, Sven combined with Bero, teaches about a system of claim 11, further comprising:

means for storing graphical user interface (GUI) code defining a GUI associated with one of the network elements (Covered in claim 6) (Sven Paragraph 48, lines 1-12);

means for retrieving the GUI code in response to a request received from one of the clients (Sven Paragraph 18, lines 10-18); and

means for transmitting the retrieved GUI code to the one client, wherein the request identifies the one client (Sven Paragraph 52, lines 1-18).

In claim 16, Sven teaches about a system of claim 15, further comprising:

means for updating the stored GUI code (Covered in claim 6) (Sven Paragraph 48, lines 1-12); and

means for detecting an update to the stored GUI code by the updating means, wherein the transmitting means is configured to transmit the updated code to the one client in response to the detected update (Sven Paragraph 52, lines 1-18).

In claim 22, Sven teaches about a method of claim 17, further comprising the steps of storing graphical user interface (GUI) code remotely from the clients, the GUI code defining a GUI associated with one of the network elements (Covered in claim 6) (Sven Paragraph 40, lines 1-10);

retrieving the GUI code in response to a request received from one of the clients (Sven Paragraph 52, lines 1-18); and

transmitting the retrieved GUI code to the one client, wherein the request identifies the one network element (Sven Paragraph 52, lines 1-18).

In claim 23, Sven teaches about a method of claim 22, further comprising the steps of: enabling a user to update the stored GUI code (Covered in claim 6) (Sven Paragraph 48, lines 1-12);

detecting an update to the stored GUI code (Sven Paragraph 52, lines 1-18) ; and transmitting the updated GUI code to the one client in response to the detecting step (Sven Paragraph 52, lines 1-18) .

In claim 24, Sven teaches about a method of claim 22, further comprising the steps of maintaining data indicative of which of the clients are interested in which of the network elements (Sven Paragraph 52, lines 1-18) ; and

updating the data in response to the request (Sven Paragraph 52, lines 1-18).

In claim 25, Sven teaches about a method of claim 24, further comprising the steps of :

displaying a GUI at the one client based on the GUI code transmitted in the transmitting step (Covered in claim 6) (Sven Paragraph 48, lines 1-12);  
receiving a user input (Sven Paragraph 48, lines 1-12);  
closing the displayed GUI in response to the user input (Sven Paragraph 33, lines 1-10); and  
updating the data in response to the closing step (Sven Paragraph 33, lines 1-10). A GUI running on top of TCP/IP (connection oriented) requires the establishment of a session when in operation. By closing the GUI, the session is terminated according to the protocol of TCP/IP, which is communicated to the destination (EMS) while in the process of closing the session.

In claim 26, Sven teaches about a method of claim 25, further comprising the step of: discarding, in response to the closing step, the GUI code transmitted to the one client (Sven Paragraph 33, lines 1-10). Without a TCP/IP session all intended data transfer is discarded.

Claim 37 and 38 are the system claim to the method of claim 22 and 25 respectively which are rejected for the same reason.

Claim 40 is the system claim to the combined method of claim 25 and 26, which are rejected for the same reason.

Claim 41 is the system claim to the method claim of claim 22 which are rejected for the same reason.

Claim 42 is the system claim to the method claim of claim 24 which are rejected for the same reason.

### ***Response to Arguments***

Applicant's arguments include the failure of previously applied art to expressly disclose "the EMS further configured to automatically poll the network elements based on which of the network elements are determined, by the EMS, to be of interest to the clients". See Response, dated 7/06/2006, pages 14-15. It is evident from the detailed mappings found in the rejection(s) above that US Patent Application No. 2003/0005099 by Sven et al, disclosed this functionality (Paragraph 52, lines 1-18). Further, it is clear from the numerous teachings (currently cited) that the provision for GUI, was widely implemented in the networking art. Thus, Applicant's arguments drawn toward distinction of the claimed invention and the prior art teachings on this point are not considered persuasive.

### *Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2002/0194320 by Collins et al, teaches about a remote support system.

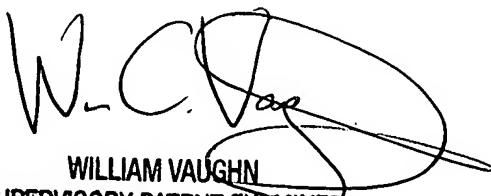
US 2003/0101251 by Low, teaches about a Customizable element management system and method using element modeling and protocol adapters.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael S. A. Delgado whose telephone number is (571) 272-3926. The examiner can normally be reached on 7.30 AM - 5.30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn Jr. can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MD

  
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